

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-27, and 29-42 and 44 are pending in the present application. Claims 28 and 43 have been canceled, and Claims 27, 29 and 40 have been amended. The changes to claims 27 and 29 are supported by previously pending claims 28 and 27 and, for example, by paragraph 0064. Thus, no new matter is believed to have been added.

In the outstanding Office Action, Claim 40 was rejected under 35 U.S.C. § 112, second paragraph; Claims 27, 30-32, 34 and 43 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,309,564 (hereinafter “the 564 patent”); Claims 27-36 were rejected under 35 U.S.C. § 103(a) as unpatentable over “PolyCon Management System Order Catalog” in view of Masahiko (JP406284118A); Claims 37 and 41-42 were rejected under 35 U.S.C. § 103(a) as unpatentable over “PolyCon Management System Order Catalog” in view of Masahiko and further in view of U.S. Patent No. 5,673,087 (hereinafter “the ‘087 patent”); Claim 43 was rejected under 35 U.S.C. § 103(a) as unpatentable over “PolyCon Management System Order Catalog” in view of the ‘564 patent; Claims 1 and 44 were rejected under 35 U.S.C. § 103(a) as unpatentable over “PolyCon Management System Order Catalog” in view of the ‘087 patent; Claims 2-26 were rejected under 35 U.S.C. § 103(a) as unpatentable over “PolyCon Management System Order Catalog” in view of the ‘087 patent, and further in view of the ‘564 patent; and Claims 1-44 were rejected under obviousness-type double patenting as being unpatentable over the claims of U.S. Patents No. 6,345,323; 6,112,264; 5,884,096; 5,721,842.

In response to the rejection of claim 40 under 35 U.S.C. § 112, second paragraph, it is respectfully submitted that such a ground for rejection has been rendered moot by the

amendment to claim 40 in which “serial data packet” was replaced by “first set of electronic signals” which clearly has antecedent basis.

In response to the rejection of claims 27, 30-32, 34 and 43 under 35 U.S.C. § 102, this rejection has been rendered moot by the inclusion of the subject matter of claim 28 into claim 27 and by the cancellation of claim 43. Claim 28 was not rejected over the ‘584 patent, and amended claim 28 (and its dependent claims) is believed to be patentable over the ‘564 patent.

In response to the rejections of claims 27-37, 41 and 42 under 35 U.S.C. 103(a) as being unpatentable over “PolyCon Management System Order Catalog” in view of Masahiko alone or in combination with at least one other reference, those grounds for rejection are respectfully traversed. In light of the amendment to claim 27, the rejection of claim 27 will be addressed with respect to claim 28. Independent claims 27 and 29 have been amended to recite that “a second set of electronic signals [is received] via the first communication link for controlling the crosspoint switch.” Such a feature is not taught by the PolyCon/XS reference. The Office Action merely alleges that “the system as modified would have means for receiving electronic signals for controlling the switch.” However, this allegation is insufficient to render obvious the claimed subject matter. The PolyCon/XS reference (by referencing the PolyCon/S reference) discloses controlling a switch using a numeric keypad, a set of up/down keys, or a timer. None of these disclose receiving a second set of electronic signals via the first communication link. Moreover, even the PolyCon/RC and the PolyCon Management Software do not disclose receiving a second set of electronic signals via the first communication link. They instead use an additional serial connection. It was Applicants that recognized that remote configuration could be achieved through an existing user input interface so as to avoid additional connections. The cited references do not even recognize the possibility of such a solution, let alone a structure for achieving the solution. Since

Masahiko does not overcome the deficiencies of the PolyCon references, claims 27 and 29 are patentable over the cited combination of references. Claims 28-37, 41 and 42 are patentable over the cited references based on their dependence on claim 27.

In response to the rejection of claim 43 under 35 U.S.C. 103(a), this ground for rejection is rendered moot by the cancellation of claim 43.

In response to the rejection of claims 1 and 44 under 35 U.S.C. 103(a), this ground for rejection is respectfully traversed. The Office Action asserts without support that "one of ordinary skill in the art would have [been] motivated to provide on screen display circuitry in the PolyCon/XS system because it would have improved operational control of the switch." However, the Office Action has not identified that such a motivation was known to those skilled in the art of KVM systems, or that even a motivation to "improve operational control" would have resulted in the recited structure. First, the '087 patent is directed to home entertainment equipment such as televisions, videocassette recorders and compact disc players. See Col. 1, lines 15-18. Thus, the '087 patent is not directed to analogous art as compared with the KVM system area. Second, the PolyCon/XS and PolyCon/RC systems had existing control interfaces (e.g., keypads and serial interfaces), and there is no indication that these were considered deficient, especially since the systems could already be controlled. The '087 patent allows access to menus and a cursor control. However, unlike the home entertainment equipment of the '087 patent, the PolyCon-Management System already had cursors and menus as it was built on top of a MS-Windows graphic shell. Thus, with cursors and menus already present in a portion of the PolyCon system, it is incumbent on the Office Action to clearly identify why there would have been motivation to combine the PolyCon systems with the '087 patent.

Lastly, there is no explanation of what "improve[d] operational control" is. This alone renders the motivation impermissible. The PolyCon-Management System already

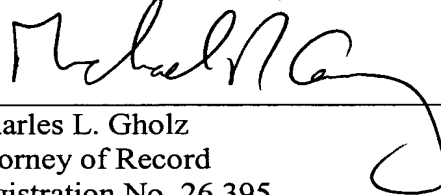
controlled the PolyCon devices, and the Office Action has not identified what portion of the devices would be "improved" by utilizing the claimed system, and it is believed that the rejection is based solely on an impermissible hindsight reconstruction. Thus, independent claims 1 and 44 are patentable over the cited combination of references. Claims 2-26 are patentable over the combination of references as well based on their dependence on independent claim 1.

With respect to the rejection of Claims 1-44 under obviousness-type double patenting, that ground for rejection is respectfully traversed. The Office Action has failed to point out which claims of the cited patents form the basis for the obviousness-type double patenting rejection. As specified in MPEP 804 (e.g., Paragraph 8.34 and 8.35), the claims of the cited patent must be identified so as to enable the Applicants to assess the propriety of the rejection. It is respectfully requested that the claims of the cited patents forming the basis for this rejection be identified or the ground for rejection be withdrawn.

Accordingly, in view of the foregoing, the present application is believed to be in condition for formal allowance. An early and favorable action is hereby respectfully requested.

Respectfully submitted,

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